

**DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
OF THE ARMY (CIVIL WORKS)**

**COMPLETE STATEMENT  
OF  
DR. JOSEPH W. WESTPHAL  
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)**

**BEFORE THE**

**SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE**

**WATER RESOURCES DEVELOPMENT ACT OF 2000  
ROOM 406, DIRKSEN SENATE OFFICE BUILDING**

**MAY 23, 2000**

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**INTRODUCTION**

Mr. Chairman and Members of the Subcommittee, I am Joseph Westphal, Assistant Secretary of the Army for Civil Works. Accompanying me today is Mr. Michael Davis, the Army's Deputy Assistant Secretary for Policy and Legislation, and MG Hans A. Van Winkle, the Army Corps of Engineers' Deputy Commander for Civil Works. It is an honor to be here today, and to provide you with information on the Army's proposal for a Water Resources Development Act (WRDA) of 2000. We appreciate the opportunity to work with your Subcommittee and the Congress on this important legislative initiative.

For over two centuries, the U.S. Army Corps of Engineers has been a great asset to our Nation. Since its founding in 1775, the Corps of Engineers has provided engineering support to the military, developed our nation's water resources, and restored and protected our environment. The Corps has improved the quality of our life

by contributing to making America more prosperous, safe, and secure. As we begin the new century, the Corps must be flexible and evolve if it is to continue to make important contributions to the Nation and respond to today's problems. We envision that the Corps will continue in its longstanding and exemplary role as a great problem solver for the Nation.

Historically, the Nation's rich and abundant water and related land resources provided the foundation for our successful development and rapid achievement of preeminence within the international community. Our Nation's waters and waterways have been focal points for economic and social development, and the Army's Civil Works program has made significant contributions to this development.

Under this Administration, there has been intense interest in finding sustainable ways to strengthen our Nation's economy while protecting and restoring our unique water and related land resources for the benefit of future generations. I believe the Army's Civil Works program has a significant role to play in meeting these objectives. There is no question that our natural resources have been affected, often in unintended ways, by our country's tremendous growth, unparalleled prosperity, and urban and rural development. Pursuant to the Water Resources Development Act of 1986, the Army Civil Works program began to change in response to the many new water resources challenges facing this Nation. The programs and policies that I will talk about today are designed to enable the Army Corps Civil Works program to continue the tradition of contributing to our economic growth, our National security, and the restoration and protection of our Nation's environment.

## **IMPORTANCE OF WATER RESOURCES DEVELOPMENT**

The Administration's Army Civil Works program reflects its commitment to justified and environmentally acceptable water resources development. Our program provides a sound investment in our Nation's security, economic future, and

environmental stability. Communities across the country rely on water resources projects to reduce flood damages, compete more efficiently in world trade, provide needed water and power, and protect and restore our rich environmental resources.

As you are well aware, there are many pressing needs for water resources development in this country. We must work together to define an appropriate Federal role in addressing these problems in the full light of our fiscal capabilities and constraints, and economic and environmental requirements. I suggest that we utilize the following principles as we formulate a Water Resources Development Act for 2000:

♦ Technically Sound Projects. Water resources investment decisions must be made based on the best technical and policy evaluations that consider all economic and environmental consequences. In light of constrained Federal dollars we must ensure, before a project is authorized for construction, that it has completed a sound planning process, has passed a full Agency and Administration review, and is fully in accord with the Federal laws and policies established to protect the environment.

♦ Central Importance of Cost Sharing. At the heart of the Water Resources Development Act of 1986 were landmark beneficiary pay reforms, which included cost sharing. As a result of this change in the way the Corps does business, local sponsors, through funding and use of their expertise, have become active participants in the formulation, evaluation, and financing of projects. The willingness of non-Federal interests to participate in cost-share studies and projects often also serves as a critical market test of a project's merits. Overall, we have found it an eminently successful policy.

♦ Fiscal Responsibility. The Nation's water resources infrastructure must be planned, constructed, operated, maintained, and improved to meet future needs. However, this must be done in consonance with other national priorities and a balanced budget. We should never create false hope by authorizing projects that we cannot reasonably expect to fund or complete within a reasonable period of time. In light of the large backlog of ongoing Corps construction projects, and other authorized projects awaiting

construction, we must limit the authorization of new studies, projects and programs and give priority to completion of ongoing construction projects. This will allow us to move toward a more sustainable long-term construction program and more timely project delivery to non-Federal sponsors.

## **ARMY CIVIL WORKS LEGISLATIVE PROGRAM FOR 2000**

The centerpiece for the Administration's legislative program for 2000 is the authorization of the Comprehensive Everglades Restoration Plan to restore America's Everglades. We have previously provided detailed testimony and briefings on this high priority project and will not elaborate further in this statement. Instead, I will focus on the non-Everglades provisions in our WRDA 2000 proposal.

Our WRDA 2000 proposal includes several provisions which, if enacted, will aid in the restoration of our natural environment. There are provisions aimed at more effectively meeting the needs of tribal and low-income communities. Finally, there are a number of provisions that will assist us in the management of existing Corps programs. I will discuss each of these areas in more detail below.

## **PROVISIONS TO ASSIST IN ENVIRONMENTAL RESTORATION AND PLANNING**

◆ Puget Sound and Adjacent Waters. Puget Sound and adjacent waters encompass more than 15,000 square miles in northwest Washington, including all waters in the Puget Sound drainage basin. Significant amounts of wetland, estuary, and river and stream habitats have been degraded or destroyed as a result of Federal, State, and local actions, including Federal navigation projects, agricultural and forest activities, and urbanization. Improving the health of this resource area is critical to Tribes, the State, and the Nation at large because of its abundant fisheries, and habitats used by migrating waterfowl. Because of this great need, we have proposed legislation that will authorize the Army Corps of Engineers to undertake critical environmental restoration projects in the Puget Sound watershed. Projects would be implemented by the Corps

with 65 percent Federal and 35 percent non-Federal cost sharing. The maximum Corps funding of any one project would be limited to \$2.5 million, with a total Corps program limit of \$10 million. Projects would be selected with the concurrence of the Secretaries of the Interior and Commerce and in consultation with appropriate Federal, Tribal, State, and local agencies, and would provide immediate and substantial restoration, preservation, and ecosystem protection benefits.

◆ CALFED Bay Delta Program Assistance. One lesson we have learned from our work in the Everglades is how important it is to be able to look at an entire ecosystem or watershed and evaluate comprehensively a broader array of water and related land resources problems and opportunities. The CALFED Bay Delta Program, initiated in 1995, represents an important collaboration among Federal and California State agencies and leading urban, agricultural, and environmental interests to address and resolve environmental and water management problems associated with the Bay-Delta system in central California. The Bay-Delta system is formed where the two foremost rivers of California's Central Valley meet. These rivers -- the Sacramento and the San Joaquin -- provide drinking water for 22 million people, and supply irrigation water for more than 4 million acres of some of the world's most productive farmland. It is the largest wetland habitat and estuary in the American West, and is a critical part of the Pacific flyway for migrating birds. The CALFED mission is to develop a long-term comprehensive plan that will improve the ecological health of the Bay-Delta system and improve water management for beneficial uses.

We have proposed that the Secretary be authorized to participate in all CALFED planning and management activities, consistent with Public Law 102-575, and to integrate its activities in the San Joaquin and Sacramento River basins with the long-term goals of the CALFED Bay Delta Program. Currently, Army Corps of Engineers participation can be limited because the Corps in many instances must rely on project-specific authorizations that do not include participation in inter-agency, bay-wide planning and management activities. Our proposal will provide the authority for the Secretary to request funds for the Corps to participate in the CALFED Bay Delta Program, and to use funds provided by others to carry out ecosystem restoration

projects and activities associated with the CALFED Bay Delta Program. The authorization would be to authorize the appropriation of \$5 million in funds over a four-year period starting in fiscal year 2002.

◆ Brownfields Revitalization Program. For several years, the Corps has been assisting, predominantly on a reimbursable basis, the Nation's efforts to restore abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by environmental contamination (i.e., Brownfields). We propose that the Army Corps of Engineers be authorized to establish and carry out a program to provide assistance to non-Federal interests in the clean-up and restoration of Brownfields where such clean-up and restoration will directly contribute to improving the quality, conservation, and sustainable use of waterways and watersheds. The Corps would use this authority to perform site characterizations, planning, design, and construction of projects to improve the quality, conservation, and sustainable use of streams, rivers, lakes, wetlands, and floodplains. Such activities in combination with the Corps' existing environmental restoration and protection authorities will enable the corps to participate more extensively in the overall Federal effort to revitalize Brownfield areas. The provision requires consultation with the Environmental Protection Agency and other appropriate agencies to ensure that Army Civil Works activities are integrated fully with the activities of others. Our proposal also includes language in Section 5(d) to clarify that this new authority would not modify existing law or agency authorities over Brownfields. Studies conducted under this authority would be in accord with normal study cost sharing, and the non-Federal share of projects would be 50 percent. Non-Federal interest would provide the lands, easements, rights-of-way, and relocations; hold and save the Federal government from claims and damages; and operate and maintain any project implemented under this authority. The legislation would authorize the Army Corps of Engineers to engage in these activities over a four-year period beginning in fiscal year 2002, with a programmatic appropriation limit of \$25,000,000 annually, for such studies and projects nationwide. There would be a \$5,000,000 one-time Army Civil Works funding limit at any single site. In addition, the legislation

calls for a report to be prepared evaluating the Corps' performance under this Brownfields Restoration Program, and for that report to be submitted to the Congress on findings and recommendations on the program by December 31, 2005.

♦ Watershed and River Basin Assessments. At a conceptual level, addressing water resources issues on a watershed scale is generally embraced as the most appropriate approach. In practice, however, agencies too often continue to focus on their parochial interests and address problems on a project-by-project basis. In many cases, this has resulted in ineffective solutions and inefficiencies. In this regard, we have included a provision in our WRDA 2000 to amend Section 729 of the Water Resources Development Act of 1986. This provision will enhance the ability of the Army Corps of Engineers to help address complex water resource problems that include large geographic areas across multiple governmental jurisdictions. It would also enhance the ability of the Corps to work efficiently and effectively in a watershed environment. Such assessments would be conducted in cooperation with other Federal, Tribal, State, interstate, and local governmental entities.

The legislation would increase the total authorized appropriations limit for such assessments from the current \$5,000,000 to \$15,000,000, and add a non-Federal cost sharing requirement. The non-Federal share of the cost of such assessments would be 25 percent. The assessments would consider a broad variety of water resources needs tailored to the specific situation in a river basin or watershed. To the extent practicable, the assessments will consider and enhance those assessments already conducted by other Federal, State, and interstate agencies.

## **PROVISIONS FOR TRIBAL AND LOW INCOME COMMUNITIES**

♦ Tribal Partnership Program. The proposed Tribal Partnership Program would enhance our ability to work with Federally recognized Tribal governments, including Alaskan Natives, to determine the feasibility of potential projects for flood damage reduction, environmental restoration and protection, and cultural and natural resource

management. The legislation acknowledges the unique relationship with Tribal governments, and authorizes the Secretary to consider traditional cultural knowledge and values when formulating and recommending projects to Congress for authorization, and unique Tribal capabilities during project development. We would coordinate with tribes and with the Department of the Interior and other Federal agencies to identify potential projects and to design and conduct feasibility studies, and would seek to avoid duplications of effort and to explore ways to integrate our resources with the activities of the affected agencies. The legislation would authorize the Army Corps of Engineers to engage in these activities over a five-year period beginning in fiscal year 2002, with a programmatic appropriation limit of \$5,000,000 annually for such studies and projects.

In addition, there will be a \$1,000,000 one-time Army Civil Works funding limit for any one tribe. In addition, we have included a provision for the Secretary to develop ability-to-pay procedures to assist low income and economically disadvantaged communities in funding studies and projects conducted under this authority.

♦ Ability to Pay. We are proposing that the ability to pay provisions of Section 103(m) of the Water Resources Development Act of 1986 be further amended so that it would apply to the construction of environmental protection and restoration projects, and to feasibility studies for flood damage reduction and environmental restoration projects. We also believe that additional criteria beyond those provided under current law must be considered. For example, we have included language in our proposal to account for the non-Federal sponsor's financial ability to carry out its cost-sharing responsibilities, and to account for the additional financial assistance that may be available from other Federal agencies or from the State or States in which the project is located.

♦ Transfer of Project Lands. Our WRDA 2000 includes a proposal to authorize the Army Corps of Engineers to conduct a feasibility study for the transfer to Indian Tribes, from whom they were taken, lands that the Army Corps of Engineers acquired under the Pick-Sloan Missouri River Basin Program. The study to transfer such lands would



be conducted in cooperation with the Secretary of the Interior and with the States of

South Dakota, North Dakota, Nebraska and other affected interests, and affected Indian Tribes. The Corps of Engineers would conduct economic, environmental, cultural resource, hazardous waste, and other surveys and evaluations, and comply with applicable environmental and historic preservation laws.

## **PROVISIONS TO ASSIST IN THE MANAGEMENT OF EXISTING PROGRAMS**

◆ Recreation Programs. In my Fiscal Year 2001 budget request for the Army Civil Works program, I announced a new initiative to modernize facilities at key recreation areas currently operated and maintained by the Army Corps of Engineers. The Corps manages 537 Federal lakes (4,340 recreation areas) and administers approximately 11.7 million acres of land and water in 43 States. These projects host 377 million visitors annually. In support of the recreation modernization initiative, I have developed two legislative provisions. First, I am asking for the authority to implement a program to reduce vandalism and destruction of property at water resources projects under the jurisdiction of the Army. Second, I am asking that the Army be given explicit statutory authority to participate in, and help fund, the state-of-the-art National Recreation Reservation Service (NRRS) developed by the U.S. Forest Service. The NRRS has been very successful in providing the public with a one-stop-shop reservation service for recreation opportunities. More than 600,000 Internet reservations were made during the 1999 recreation season.

◆ Project Deauthorizations. The Army Corps of Engineers has many authorized projects that have not been completed, and many that will never be constructed, all of which are contributing to the growing backlog of Civil Works projects. Currently, there is a construction backlog of about \$46 billion. This includes all authorized projects, whether or not they have received funding. The size of the construction backlog does not include the many known projects still in the study or review stage that are awaiting authorization. Sufficient funding is simply not available to implement all of these projects in a timely way. To take a small, but important step, to remedy this situation,

we propose to modify the current criteria for deauthorizing projects. The proposal

identifies a reasonable time period after which a project should be under construction. Where this does not occur, and Congress has been given ample notice but not reauthorized the project, we believe that the project should be “taken off the books” automatically by deauthorization.

◆ Flood Damage Reduction Program. There are two provisions aimed at improving the flood damage reduction program. First, there is a measure to change the cost sharing for structural flood damage reduction projects to 50 percent Federal and 50 percent non-Federal. The cost sharing for non-structural project would remain at 65 percent Federal and 35 percent non-Federal. We believe that this increase in the local cost-share is needed to provide a truer “market test” for our structural flood damage reduction projects. Within the Corps’ budget, this change would free up Federal funds for other projects and programs and would provide a stronger incentive to communities and to the Corps to consider non-structural flood damage reduction alternatives. Our recommended revisions to Section 103(m) of the Water Resources Development Act 1986 (Ability-to-Pay), discussed above, would complement this proposal. Together, these two proposals would ensure that needed flood damage reduction projects can go forward in all communities, regardless of their current level of prosperity.

Second, we propose to strengthen the flood plain management requirements of Section 402 of the Water Resources Development Act of 1986, to require non-Federal interests to take measures to preserve the level of flood protection that the projects are intended to provide when they are constructed.

## **PROVISIONS FOR PROJECT AUTHORIZATIONS**

Since the last Water Resources Development Act, the Army Corps of Engineers has submitted only one project to me for authorization. On May 15, 2000, I received the Chief of Engineers recommendation on the New York and New Jersey Harbor

Navigation Project. My office will now review this proposal, and the Administration will now be able to consider the project for authorization. I expect to be able to submit my

recommendation on this important project in time for Congress to consider it for authorization in WRDA 2000. In addition, the Army Corps of Engineers has certain other projects that are in the final stages of its planning process. As these projects are submitted to me, we will review them and forward them to the Congress with the Administration's recommendation.

In regard to potential project authorizations in WRDA 2000, I strongly urge the Committee to authorize only those projects that have completed Executive Branch review. We believe this will improve our ability to construct projects that will benefit the Nation.

Roughly three-quarters of the significant new project in last year's WRDA 1999, and many of its project modifications, were still in the planning stage or undergoing review when Congress authorized them. Many of these projects have not yet completed the review required for proposed Federal water resources projects under Executive Order 12322. Until they have done so, neither the Executive branch nor the Congress is likely to know which of these project will raise significant concerns regarding their scope, economic and technical feasibility, environmental acceptability, or the ability of local sponsors to provide the required cost-share.

## **HARBOR SERVICES FUND AND USER FEE**

Last year, the Administration transmitted to Congress its Harbor Services Fund and User Fee proposal to establish a new mechanism for financing development, operation and maintenance of the Nation's ports and harbors. The new Fund and user fee would replace the Harbor Maintenance Trust Fund, and the Harbor Maintenance Tax, a portion of which was found unconstitutional and has been the subject to questions raised by U.S. trading partners regarding claims that it violates the General

Agreement on Tariffs and Trade. This fee would collect about the same total amount of revenue as would have been collected under the Harbor Maintenance Tax prior to the

Supreme Court's decision. Enactment of the proposed new fund and user fee would provide a much needed, stable, long-term source of financing to enable commercial harbor and channel work to proceed on optimal schedules. I urge prompt congressional action on this important proposal.

## **CONCLUSION**

Mr. Chairman, this concludes my testimony. I stand ready to work with you and your Subcommittee in developing this important legislation. We would be pleased to answer any questions you or the Subcommittee may have.

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